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ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND 20.11.3 NMAC, *TRANSPORTATION CONFORMITY,* AND INCORPORATE SAID AMENDMENTS INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN FOR AIR QUALITY(SIP)

AQCB Petition No. 2010-2

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

Petition to Amend 20.11.3 NMAC, *Transportation Conformity,* and Incorporate an Amended 20.11.3 NMAC into the New Mexico State Implementation Plan for Air Quality (SIP)

The Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division (AQD), asks the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) for a hearing at which the Air Board will hear the Air Quality Divisions' request to adopt amendments to 20.11.3 NMAC, *Transportation Conformity,* and submit said amendments to U.S. Environmental Protection Agency (EPA) as a revision to the SIP. This Petition includes a request for a hearing on these matters and permission to provide a court reporter and hearing officer for the hearing. As grounds, Petitioner states the following:

1. The New Mexico Air Quality Control Act (Air Act), NMSA 1978, Sections 74-2-4 and 74-2-5.B(1) [1967 as amended through 2007] authorizes and requires the Air Board to adopt, amend, or replace air quality regulations and to adopt air quality plans (SIPs) under NMSA 1978, Section 74-2-5.B(2).

2. On March 24, 2010, the EPA promulgated changes to the transportation conformity rule that primarily affects $PM_{2.5}$ and PM_{10} nonattainment and maintenance areas. This rule became effective on April 23, 2010 [FR Vol. 75, No. 56, 14260-14285]. In response, and as required by EPA, the City of Albuquerque Environmental Health Department is proposing amendments to update the conformity regulation. EPA's updated rule:

- Provides clear guidance on how to implement transportation conformity under the 2006 $PM_{2.5}$ national ambient air quality standards (NAAQS) to ensure that transportation planning and air quality planning are coordinated and that air quality is protected. Conformity will apply in 2006 $PM_{2.5}$ nonattainment areas for this NAAQS on December 14, 2010, based on the one-year grace period for newly designated areas in the Clean Air Act (CAA) and the transportation conformity rule;
- Includes the requirements for demonstrating conformity for the 2006 $PM_{2.5}$ NAAQS, including the regional emissions test(s) that would apply before and after SIP motor vehicle emissions budgets are established for the revised NAAQS;
- Updates the baseline year for the interim emissions test to calendar year 2008 in 2006 $PM_{2.5}$ nonattainment areas;
- Clarifies which budgets PM_{10} nonattainment and maintenance areas would use for transportation conformity determinations, now that the annual PM_{10} standard has been revoked; and

- Clarifies that federally funded or approved highway and transit projects in $PM_{2.5}$, PM_{10} and CO nonattainment and maintenance areas must not delay timely attainment or achievement of other interim milestones.

Background

Transportation conformity is a CAA requirement that ensures that federally supported highway and transit projects are consistent with state air quality implementation plans. Conformity helps protect public health through early consideration of the air quality impacts of transportation decisions in places where air quality does not currently meet federal standards or has not met them in the past.

Health and Environmental Benefits

EPA's final rule improves the health and environmental benefits of the existing transportation conformity program by requiring new $PM_{2.5}$ nonattainment areas and existing PM_{10} nonattainment and maintenance areas to use conformity tests that ensure that air quality is protected in areas that need to attain or maintain federal air quality standards. The final rule also clarifies that hot-spot analyses are performed in a manner consistent with the CAA public health and environmental requirements.

3. It is anticipated that the hearing will take approximately 1 hour or less.

4. The proposed Public Review Draft of 20.11.3 NMAC, *Transportation Conformity* is attached as Exhibit #1a.

Respectfully submitted,

Mary Lou Leonard
Director, Environmental Health Department
City of Albuquerque
One Civic Plaza, NW, Room 3047
Albuquerque, New Mexico 87103
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CERTIFICATION

I hereby certify that a copy of this Petition to Amend 20.11.3 NMAC, *Transportation Conformity*, and Incorporate said amendments into the New Mexico State Implementation Plan for Air Quality (SIP), was delivered to the following person on July 6, 2010.

Janice Wright
Air Quality Control Board Liaison
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

Mary Lou Leonard
Director, Environmental Health Department